

**Federal Communications Commission**

**The FCC Acknowledges Receipt of Comments From ...  
United States Cellular Corporation  
...and Thank You for Your Comments**

<b>Your Confirmation Number is: '20001011463195 ' 1</b>		
<b>Date Received: Oct 11 2000</b>		
<b>Docket: 94-102</b>		
<b>Number of Files Transmitted: 1</b>		
<b>File Name</b>	<b>File Type</b>	<b>File Size (bytes)</b>
REPLY TO COMMENTS	Adobe Acrobat PDF	22002

[Initiate a Submission](#) | [Search ECFS](#) | [Return to ECFS Home Page](#)

[FCC Home Page](#)[Search](#)[Commissioners](#)[Bureaus/Offices](#)[Finding Info](#)

*updated 07/07/00*

Judith A. Endejan  
Attorney at Law  
(206) 233-2998  
jendejan@wkg.com

Two Union Square  
601 Union Street, Suite 4100  
Seattle, Washington 98101-2380  
P.O. Box 21926  
Seattle, Washington 98111-3926  
Telephone (206) 628-6600  
FAX (206) 628-6611

October 11, 2000

RECEIVED

89530.104

VIA FEDERAL EXPRESS

OCT 12 2000

FCC MAIL ROOM

Secretary  
Federal Communications Commission  
445 - 12th Street S.W. TW-A325  
Washington, D.C. 20554

Re: CC Docket 94-102

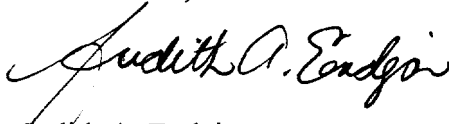
Dear Secretary:

Enclosed please find for filing an original and 4 copies of the Reply Comments of United States Cellular Corporation on Phase I E911 Implementation Issues Pursuant to DA 00-1875. We have also filed these comments electronically today. We are enclosing an additional copy and self-addressed, stamped envelope. We would appreciate it if you would return this copy to us with an indication the document has been filed.

Please contact me at (206) 233-2998 if you have any questions or comments. Thank you.

Very truly yours,

WILLIAMS, KASTNER & GIBBS PLLC

  
Judith A. Endejan

END:ks  
Enclosures

cc: E. Wendy Austrie, FCC (w/encl.)  
Mary Davis, U.S. Cellular (w/encl.)  
Jim Young, Sidley & Austin (w/encl.)

No. of Copies rec'd 074  
List ABCDE

RECEIVED  
OCT 12 2000  
FCC MAIL ROOM

BEFORE THE FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554

In the Matter of:

Revision of the Commission Rules to Ensure  
Compatibility With Enhanced E911 Emergency  
Calling Systems.

CC DOCKET 94-102

REPLY COMMENTS OF UNITED STATES  
CELLULAR CORPORATION ON PHASE I  
E911 IMPLEMENTATION ISSUES  
PURSUANT TO DA 00-1875

I. INTRODUCTION

The Commission's Public Notice (DA 00-1875) raises only one narrow issue — whether the cost of the network connection between a wireless carrier's mobile switching center ("MSC") and an E911 selective router should be borne by Public Safety Answering Points ("PSAPs"), or wireless carriers in the deployment of wireless E911. In their opening comments, several members of the public safety community try to broaden the scope of issues raised by the Public Notice. For instance, some comments<sup>1</sup> contend erroneously that wireless carriers manufactured this issue out of a desire to rescind the Commission's Second Memorandum Opinion and Order in this docket.<sup>2</sup> Other comments raise the issue of wireline telephone complicity,<sup>3</sup> or whether a

<sup>1</sup> Joint Comments of NENA, APCO and NASNA as Public Safety Communicators ("PSC"), p. 7.

<sup>2</sup> Revision of the Commission's Rules to Ensure Compatibility With Enhanced E911 Emergency Calling Systems. CC Docket No. 94-102, 14 FCC Rcd. 20850 (1999).

<sup>3</sup> See Joint Comments of PSC, p. ii, p. 16.

ORIGINAL

Washington statute (RCW 38.52.560) has been preempted by the Commission's rulings in this docket.<sup>4</sup> United States Cellular Corporation ("USCC") urges the Commission to ignore these extraneous issues and to stick to the resolution of the narrow issue raised by the Public Notice. These reply comments address only that issue. Because Section 20.18(j) of the Commission's rules adopted in the Second Memorandum Opinion and Order can only mean that PSAPs bear the cost for their E911 system — which includes all of the network — in order to receive and utilize the data elements to be provided by the wireless carrier for E911, the PSAPs should pay for the network and network connection at issue. A contrary interpretation would cause a substantive change to the Commission's rules, which can only be accomplished procedurally via rulemaking and not via Public Notice. See 47 CFR Sec. 0.331(d).

It is no surprise that comments from the public safety community, by and large, shift cost responsibility for the network connections to wireless carriers.<sup>5</sup> Wireless carriers should not bear these costs for the reasons stated in USCC's opening comments, and the majority of other wireless industry members.

## II. DISCUSSION AND ARGUMENT

### 1. The Public Safety Community Did Not Cite To Any Provision in the Second Memorandum Opinion and Order or Rule to Support The Position That the E911 Selective Router Should be the Cost Demarcation Point.

None of the public safety commentators who claim that the E911 selective router should be the demarcation point between carrier and PSAP cost responsibilities cite any provision of the Second Memorandum Opinion and Order to support this view. In contrast, USCC and others<sup>6</sup>

---

<sup>4</sup> See comments of the Washington State Enhanced E911 Program. In the Second Memorandum Opinion and Order (Pars. 73 and 74) the Commission refused to address a request from the Washington Attorney General over this statute, finding the request for clarification of the Commission's rule to be moot in light of the elimination of the cost recovery requirement in the Second Memorandum Report and Order.

<sup>5</sup> The exact position of the Indiana Wireless Enhanced E911 Advisory Board and the Maricopa County E911 system response is not entirely clear from their filed opening comments. The Indiana Board merely states that wireless carriers may seek recovery for network charges under recent Indiana legislation, while the Maricopa County E911 system states "we feel the demarcation point for the wireless carrier should be treated in the same fashion as wireline providers." (p. 2).

<sup>6</sup> See i.e. Comments of Voicestream Wireless Corporation, pp. 4-5, Comments of Qwest Wireless, LLC, pp. 8-10.

point to repeated references in the Second Memorandum Opinion and Order which demonstrate that the Commission expected the PSAP funding requirement to cover any “additional network services” (Par. 66). The Order anticipated that PSAPs would need to upgrade their E911 systems to handle wireless E911 calls. See Pars. 23, 66, 67, 69. Trunks to the E911 selective router from a carrier switch — whether wireline or wireless — constitute part of that system.<sup>7</sup> Therefore, if new network trunks are required to handle wireless calls as part of the overall system upgrade responsibility was placed squarely upon PSAPs by the Second Memorandum Opinion and Order.

Viewed another way, the new rule (Section 20.18(j)) requires PSAPs to be able to “receive and utilize” the data elements associated with wireless E911 service. New trunks may have to be added to receive these data elements. In sum, the only reasonable interpretation of the language of the Second Memorandum Opinion and Order, compels the conclusion that PSAPs should be responsible for any additional network costs they experience to handle wireless E911. The interpretation suggested by the public safety community in opening comments has no basis in this Order and rests entirely upon their preferences.

2. The Public Safety Community Distorts the Record in This Docket, Claiming That Wireless Carriers Have Already Acknowledged Financial Responsibility For These Network Costs.

The Joint Comments of PSC (pp. 10-11) contend that wireless carriers have already accepted financial responsibility for network connections required to interface with the E911 selective router, prior to the Second Memorandum Opinion and Order. This contention suggests erroneously that wireless carriers are now taking an inconsistent position by refusing to pay for network costs. PSC’s argument is based upon a distortion of the comments of two carriers, NEXTEL and USCC, submitted in this docket prior to issuance of the Second Memorandum Opinion and Order, at a time when the Commission’s rules required a full carrier cost mechanism to be in place before E911 implementation. The USCC and NEXTEL comments

---

<sup>7</sup> In Washington the E911 voice network “means all switches and circuits which provide the connection between the caller’s central office and the public safety answering points.” See WAC 118-65-03(1). PSAPs in Washington pay for this connection and view it as part of their E911 network.

really mean that USCC and NEXTEL identified costs which they fully anticipated would be reimbursable by the PSAPs under the then-existing FCC's rules. Therefore, in that context, it is disingenuous for PSC to characterize the comments of NEXTEL and USCC as an acknowledgment of wireless carrier financial responsibility for network connections. NEXTEL's comments merely identify wireless E911 expenses, but do not state that NEXTEL agrees to pay them all without seeking reimbursement, which would be nonsensical in a carrier cost recovery environment.

At page 10 of its comments, PSC mischaracterizes USCC's previous statements. USCC's comments submitted in 1999 only illustrate the unnecessary and extraordinarily high costs which make rural E911 implementation more expensive, and that USCC will experience significant costs to pay vendors such as XYPOINT to provide wireless E911 data capabilities to PSAPs. Nothing in USCC's previous comments could be construed as an acceptance by USCC of financial responsibility for network connectivity costs.<sup>8</sup> In sum, an identification by wireless carriers of the costs involved in connecting MSCs to E911 selective routers does not compel the conclusion that wireless carriers agreed to pay those network connection costs, or that it is appropriate to order them to do so.

PSC misuses the USCC and NEXTEL comments to claim that wireless carriers were "expecting" to bear network connection costs to implement wireless E911. Clearly, no such "expectation" existed at a time when wireless carriers fully expected to be reimbursed for all wireless E911 costs. If anything, the opening comments of the public safety community demonstrated that PSAPs were "expecting" to pay for additional trunks required for their E911 system. At least one public safety comment noted that a public safety agency would pay for the costs of additional trunks needed "to carry higher volumes of call traffic." Comments of the Indiana Wireless Enhanced Advisory Board,

---

<sup>8</sup> USCC continues to protest the elimination of the carrier cost recovery requirement to this date. See United States Cellular Corp. v. Federal Communications Commission (Docket No. 00-1072 D.C. Circuit) (matter currently held in abeyance).

p. 3. If PSAPs need only add additional trunks to handle increased call volumes due to wireless E911 calls (as would be the case where wireless carriers like USCC choose an NCAS solution) then PSAPs should be expected to pay for these trunks.<sup>9</sup>

3. Placing Cost Responsibility for the Network on the PSAP Will Further the Commission's Goals.

If the Commission eliminated the carrier cost recovery requirement to further twin goals of removing an impediment to wireless E911 implementation and to minimize technological choice disputes<sup>10</sup>, then drawing the cost demarcation point at the MSC will further those goals. By eliminating the carrier cost recovery requirement, the issue of cost demarcation would become more, not less, controversial unless the Commission assumed that there would be no controversy because PSAPs would be responsible for all network costs and must have state funding to cover those costs.

Placing cost responsibility on PSAPs for the network from the MSC to the E911 Selective Router would also minimize technological disputes. The predominant wireless E911 technological choice of NCAS does not require major E911 network upgrades. Therefore, if a PSAP chooses to upgrade the network to handle both CAS and NCAS solutions and has responsibility for paying for this upgrade, there should be no reason for a technological dispute. Placing network cost responsibilities on the PSAP provides an incentive to the PSAP to make cost effective network choices, and an incentive to work with carriers on the issue of technological choice.<sup>11</sup>

Wireless carriers such as USCC, have chosen a Phase I technology which does not require major upgrades or changes to the way the E911 system is currently configured. Its choice is not forcing any new or additional costs on PSAPs. Under the circumstances, USCC

---

<sup>9</sup> See Opening Comments of USCC at pp. 5-7 for a discussion of the NCAS solution.

<sup>10</sup> See PSC Opening Comments, pp. 5-7.

<sup>11</sup> In Washington State, PSAPs retain the ultimate control in selecting and planning their E911 systems and have ample state funding to pay for this. See footnote 8 in USCC's opening comments.

should not have to pay for the transmission technology which is ultimately chosen and controlled by the PSAP.

4. The Public Safety Community Cannot Explain Why It is Acceptable For Them To Pay Wireline Providers For Network Links and Not Pay Wireless Providers.<sup>12</sup>

In varying forms, members of the public safety community acknowledge that they have always paid wireline providers (“LECs”) to provide E911 service. (See, i.e., PSC Comments, p. 14, King County E911 Program Comments, p. 3.) They do not object to paying LECs for the selective router, the network and the database component of the E911 service from the LEC end offices to the PSAPs. (King County E911 Program Comments, p. 3.) They support full recovery of all LEC costs of providing the E911 service. King County even acknowledged that LECs could pass any increase in costs due to LEC provision of the wireless network connections at issue in the LEC E911 rates, and that King County would pay them.<sup>13</sup>

Given the public safety community’s reliance on historic practice and precedent for paying network costs for wireline E911, the Commission should find it reasonable for PSAPs to expect to assume these costs for wireless E911 services. The public safety community’s position is inexplicably inconsistent and irrational when it comes to payment of costs to provide wireless E911 service. If both wireline and wireless providers incur costs to provide E911 service, it seems nonsensical for a PSAP to pay willingly the former, but not the latter, for the provision of this service.

The rationales for this position do not hold up. PSC argues that “there is no customer relationship between the PSAP and the wireless carrier.” (PSC Comments, p. 14.) However, wireless carriers must offer E911 capabilities upon a “service request” from a PSAP.<sup>14</sup> Second

---

<sup>12</sup> The PSC argument that the Second Memorandum Opinion and Order did nothing to change the dynamics of efforts to achieve state wireless cost recovery is disingenuous. Clearly the state legislatures have no incentive to increase taxes or impose surcharges to cover costs which the Commission said must be paid for by wireless carriers.

<sup>13</sup> One questions how in the same paragraph King County can claim that it has the ability to influence rates set by the Commission?!

<sup>14</sup> PSAPs, such as King County, usually require service agreements which place PSAPs in the customer position.



Memorandum Report and Order, Par. 105. Wireline carriers offer E911 capabilities based upon PSAP service orders placed pursuant to a special contract or tariff. Id. at Par. 94. The only difference is that PSAPs pay for the service requested from wireline carriers, but do not do so for wireless carriers.

The public safety community then contends that its discrimination against wireless carriers is justified by the fact that wireless rates are deregulated so that carriers are free to choose how to recover E911 costs from their customers. This justification makes no sense for several reasons. First, this ignores the fact that E911 specific costs are captured in specific wireline rates which are charged to the cost causer – the PSAP. The Commission would not allow wireless companies to charge specifically the cost-causer, the PSAP, any rate, so the issue of rate deregulation is irrelevant. Second, both wireline and wireless customers may pay separate E911 surcharges, as in Washington State. However, only wireless customers are expected to pay additional unspecified charges for E911 service. The inequity of this position is highlighted by the fact that King County in this case has been collecting wireless revenues for E911 service from a wireless surcharge since 1994, yet wireless customers have not received E911 services. King County has collected over \$3.6 million in revenues from the wireless E911 surcharge since 1994. However, King County cannot demonstrate that it has used any of these funds for any specific E911 wireless related costs. In fact, its failure to track wireless E911 costs demonstrates that King County has not used these funds to provide wireless E911. See Comments of USCC (pp. 11-13) filed September 15, 1999 in this docket. Finally, just because wireless carriers' rates are deregulated does not mean they should be forced to pay for costs which are not their responsibility in the first place.

In sum, logic and equity require, at the very least, that PSAPs be required to pay the network costs which they have always paid for wireline E911 and for which they have a PSAP cost recovery mechanism. This means the cost demarcation point should be drawn at the MSC.

### III. CONCLUSION

The opening comments of the public safety community state no basis except their own self-interest for drawing the cost demarcation point at the E911 selective router. This position is unwarranted by their historic treatment of wireline E911 costs and the Commission's expectations for PSAP cost recovery as stated in the Second Memorandum Opinion and Order. The proper cost demarcation point is the MSC and PSAPs should have to pay for all network and network connections past that point.

RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of October, 2000.

WILLIAMS, KASTNER & GIBBS PLLC

By Judith A. Endejan  
Judith A. Endejan  
WSBA #11016

Attorneys For United States Cellular  
Corporation

Two Union Square  
601 Union Street, Suite 4100  
Seattle, Washington 98101-2380  
(206) 628-6600